

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 5-24-06

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
PHOENIX BULK CARRIERS LTD., :

Plaintiffs, :

- against - :

KREMIKOV TZI TRADE, et al., :

Defendants. :

-----X  
FINO MARINE S.A., et al. :

Plaintiffs, :

- against - :

KREMIKOV TZI TRADE, et al., :

Defendants. :

-----X  
D'AMATO FRATELLI SPA, :

Plaintiffs, :

- against - :

Defendants. :

-----X

05 Civ. 9559 (VM)

05 Civ. 10320 (VM)

05 Civ. 10585 (VM)

**ORDER**

**VICTOR MARRERO, United States District Judge.**

Upon review of the complaints and other papers filed with the Court in connection with the three cases captioned above, and in response to a letter dated May 12, 2006 from GSHL Bulgaria S.A., a copy of which is attached, the Court scheduled a conference on May 19, 2006 to consider whether these actions should be consolidated for pretrial purposes. As discussed at that conference, because the three actions involve the same or substantially similar underlying events

and operative facts, and assert the same or substantially similar claims against the same defendants, and plaintiffs are seeking to obtain security interests for enforcement purposes in funds held in the same bank account allegedly belonging to defendants herein, the Court is persuaded that consolidation is appropriate. Accordingly, it is hereby

**ORDERED** that all submissions to the Court in connection with the consolidated action be filed against the remaining lower Docket No. 05 Civ. 9559, and it is finally

**ORDERED** that the Clerk of Court close the referenced higher numbered cases, Docket Nos. 05 Civ. 10320, and 05 Civ. 10585, as a separate action and remove them from the Court's docket.

**SO ORDERED.**

Dated: New York, New York  
22 May 2006

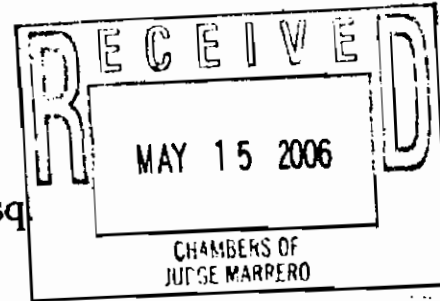


VICTOR MARRERO  
U.S.D.J.

ORIGINAL

Law Offices of  
SIMON HARTER, Esq.  
[sharter@harterlaw.com](mailto:sharter@harterlaw.com)

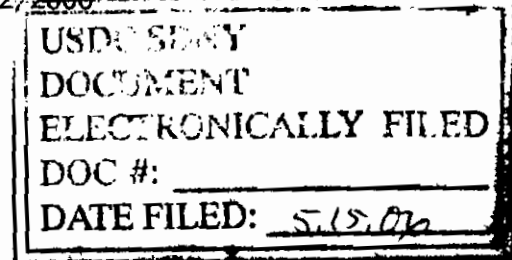
304 Park Avenue South - 11<sup>th</sup> Floor  
New York, New York 10010  
Tel: (212) 979-0250  
Fax: (212) 979-0251



20 Nassau Street - Suite 211  
Princeton, New Jersey 08542  
Tel: (609) 688-8330  
Fax: (609) 688-8331

Via Telecopier (212) 805-6382  
Honorable Victor Marrero  
United States District Judge  
Southern District of New York  
40 Centre Street - Suite 414  
New York, New York 10007

May 12, 2006



Re: Phoenix Bulk Carriers Ltd. vs. Kremikovtzi Trade  
Civil Action No.: 05-CV-9559 (VM)

Fino Marine S.A. et al. vs. Kremikovtzi Trade Ltd.  
and Kremikovtzi Corporation  
Civil Action No.: 05-CV-10320 (VM)

D'Amato Fratelli SPA vs. Kremikovtzi Trade  
Civil Action No.: 05-CV-10585 (VM)

Dear Judge Marrero:

We represent GSHL Bulgaria S.A., which has made a restricted appearance pursuant to Rule E(8) of the Supplemental Rules for Certain Admiralty and Maritime Claims in each of the three referenced actions pending before Your Honor. We write to respectfully request that the three actions be consolidated.

In each of the three actions, the respective plaintiff asserts claims against Kremikovtzi Trade and, in the Fino case (05-CV-10320), also against Kremikovtzi Corporation.

May 12, 2006

Page 2

In each case, this Court issued an order for the issuance of a Process of Maritime Attachment and Garnishment (PMAG) pursuant to Rule B of the Supplemental Rules for Certain Admiralty and Maritime Claims.

Each of the three plaintiffs served the PMAG on UBS AG Bank's New York branch. In response, UBS Bank has restrained \$883,717.24 in funds purportedly belonging to the Defendant, Kremikovtzi Trade. As Your Honor may recall from the Phoenix Bulk case, however, we have submitted that our client, GSHL Bulgaria S.A., is the owner of the restrained funds, rather than Kremikovtzi Trade. It is our contention in all three cases that the attachments should be vacated and, moreover, that the refusal of each of the plaintiffs to consent to release of GSHL's funds is actionable.

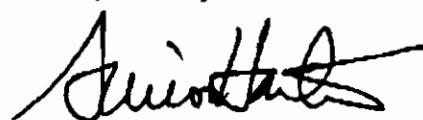
The origin and ownership of the restrained funds is currently the subject of discovery in the Phoenix Bulk case. At the same time, counsel for Plaintiff in the D'Amato Fratelli action wrote to Your Honor on May 8, 2006 and indicated that he was preparing an application for a default judgment. To the extent that this application seeks enforcement against the restrained funds, GSHL objects to it.

Inasmuch as each of the three plaintiffs assert overlapping attachments against the restrained funds, the issue of the ownership of those funds is crucial to the resolution of each action. Rather than requiring the parties in each case to engage in duplicative discovery, and in order to avoid the possibility of conflicting decisions in the three actions, we respectfully request that Your Honor consolidate the three cases.


We are prepared to submit a formal motion, or appear for a pre-motion conference, should Your Honor so direct.

We thank the Court for its kind consideration of this request.

Respectfully submitted,



Simon Harter

Request GRANTED. <i>A status</i>	
conference herein is scheduled <i>for 5-19-06</i>	
at <i>1:00 p.m.</i> to review the	
<i>request set forth above and</i>	
SO ORDERED, <i>the current posture</i>	
<i>of pretrial proceedings.</i>	
<i>5-15-06</i>	
DATE	VICTOR MARRERO, U.S.D.J.